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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,085	04/18/2005	Thierry Massfelder	BJS-3665-133	9193
23117 7590 10/10/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER GUSSOW, ANNE	
			ART UNIT 1643	PAPER NUMBER
			MAIL DATE 10/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,085	Applicant(s) MASSFELDER ET AL.	
	Examiner Anne M. Gussow	Art Unit 1643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-20,23-26,31 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20,23-26,31 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claim 17 has been amended.
2. Claims 17-20, 23-26, 31, and 33-35 are under examination.
3. Applicant's request for a personal interview is acknowledged, however, due to time constraints an interview is unable to be scheduled before the mailing of this Office Action. Applicant is invited to contact the examiner to schedule an interview at a future date.

Rejections Withdrawn

4. The rejection of claim 17 under 35 U.S.C. 112, second paragraph, as lacking antecedent basis is withdrawn in view of applicant's amendment to the claim.

Rejections Maintained

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. The rejection of claims 17-20, 23-26, 31, and 33-35 under 35 U.S.C. 103(a) as being obvious over Ogata, et al. in view of Iwamura, et al. and Burton, et al. is maintained.

Applicant's response filed September 6, 2007 has been carefully considered but is deemed not to be persuasive. The response states that Ogata teach a lung cancer model, not a kidney cancer model (see response page 6) and that Iwamura, et al. teaches away from the claimed invention making an inverse correlation between cancer recurrence and PTHrP expression (see response pages 8-9). In response to this argument, Ogata, et al. teach treating hypercalcemia in a lung cancer model with an antibody that recognizes PTHrP, Ogata, et al. are not treating the tumor itself, just one of the resulting effects of the tumor. Regarding the teaching away of Iwamura, the reference is important for showing that patients with RCC (renal cell cancer) express PTHrP and that most RCC patients with hypercalcemia have elevated PTHrP levels, thus providing in vivo support for the in vitro experiments of Burton, which inhibits cell growth in a RCC cell line by administering an antibody that recognizes PTHrP. Additionally, Iwamura, et al. teach correlation between cancer recurrence and PTHrP expression, they don't study expression of PTHrP in primary tumor cells or as a method of treatment. Iwamura, et al. teach that the discrepancies between their study and previous studies most likely reflects difference in the antibodies used (page 1033). The antibody of Burton, et al. recognized PTHrP (1-34), while the antibody of Iwamura recognized PTHrP (109-141). Iwamura suggests that PTHrP (109-141) may be involved in growth inhibition (page 1032, 2nd column) and that different regions of the

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protein may have different activities. Thus, while Iwamura may inversely correlate PTHrP (109-141) expression with renal cancer recurrence, the antibody of Burton, PTHrP (1-34) would reduce cell growth.

Therefore, after a fresh consideration of the claims and the evidence provided, the rejection is maintained.

Conclusion

7. No claims are allowed.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne M. Gussow whose telephone number is (571) 272-6047. The examiner can normally be reached on Monday - Friday 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on (571) 272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anne M. Gussow

October 1, 2007


LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER